into force, I have never come across a more iniquitous case of a protected tenant abusing the provisions of the Control of Rent Ordinance. I have never known more oppressive conduct on the part of a tenant towards his landlord.

I give judgment for the plaintiffs and order that the defendant deliver up vacant possession of premises Nos. 79 & 80 Maxwell Street, Rawang, to them by April 30, 1964; double rent to be payable after that date, and costs of this action to plaintiffs on the High Court scale; stay of execution in the event of an appeal.

The plaintiffs, may, if they so choose, have an inquiry before the Senior Assistant Registrar to determine the amount of compensation to be paid by defendant for restoring two party-walls at the back of the top-floor removed from the open space between premises Nos. 80, 79 & 78; and for replacing doors removed. These directions appear to be necessary from my own observations made while viewing the premises, and because evidence on this point appears to have been overlooked. This matter is not outside the pleadings because the claim includes one for damage to the premises.

Judgment for the plaintiffs.

Solicitors: *K. L. Devaser & Co.*; *Lovelace & Hastings.*

STRAITS CABARET (1953) LTD. v. LEE SOCK GOH

[O.C.J. (Choor Singh J.) May 21, 1964]
[Singapore — Suit No. 1100 of 1955]

Landlord and Tenant — Possession — Judgment for, by consent — Proviso that during residue of lease judgment for possession not enforceable — Expiry of lease — Holding over — Whether statutory tenancy created.

In 1957 the plaintiffs were given possession of the premises in question pursuant to a judgment by consent with the following proviso: "But provided that during the residue of the term of years created by the lease of the said premises made between the parties hereto and dated the 2nd day of March, 1954 such judgment and order for possession shall not be enforceable unless the rent for the said premises and for the trade and other fixtures and fittings referred to in the said lease at the rate of $1,000 per month as from the 1st day of August, 1957, has not been paid by the 21st day of any month following upon written demand served on the defendant in accordance with clause 6(c) of the said lease before the 14th day of that month, in which event the plaintiffs are to be at liberty to apply to the judge for leave to issue execution on this judgment and order and the court makes no further order in respect of the relief sought in the statement of claim herein and doth dismiss the counterclaim herein and makes no order as to the costs of the action or of the said counter claim and it is lastly ordered that the parties shall be at liberty to apply." On the expiry of the lease the defendant refused to give up possession of the premises.

Held: the judgment became enforceable upon the expiry of the lease, and the defendant became a trespasser as from that date. The question of the premises being rent controlled or otherwise did not arise as the matter had been dealt with at the trial and was now closed.

ACTION.

Goh Heng Leong for the plaintiffs.

L. M. Ong for the defendant.

Choor Singh J.: In this action judgment by consent was given in favour of the plaintiffs against the defendant on the 16th July, 1957, and it was ordered in the judgment that the defendant give to the plaintiffs possession of certain premises forthwith with the following proviso:

> "But provided that during the residue of the term of years created by the lease of the said premises made between the parties hereto and dated the 2nd day of March, 1954 such judgment and order for possession shall not be enforceable unless the rent for the said premises and for the trade and other fixtures and fittings referred to in the said lease at the rate of $1,000 per month as from the 1st day of August, 1957, has not been paid by the 21st day of any month following upon written demand served on the defendant in accordance with clause 6(c) of the said lease before the 14th day of that month, in which event the plaintiffs are to be at liberty to apply to the judge for leave to issue execution on this judgment and order and the court makes no further order in respect of the relief sought in the statement of claim herein and doth dismiss the counterclaim herein and makes no order as to the costs of the action or of the said counter claim and it is lastly ordered that the parties shall be at liberty to apply."

The trial of this action took place before Tan Ah Tah J. (as he then was) and the trial judge's notes read as follows:

> "Atkinson for plaintiffs.
>
> Rayner for defendant.
>
> Atkinson: The parties have settled the case. Certain payments are being made. The court will not be troubled with this aspect of the case.
>
> As to the claim for possession it has been agreed that a judgment be given to plaintiffs for possession but the judgment be suspended for so long as the defendant pays the rent. Mr. Rayner will admit that the premises are new premises and not subject to the Control of Rent Ordinance (tenders draft judgment).
>
> Rayner: I agree to the counterclaim being dismissed. I admit on behalf of defendant that the premises are new premises and are therefore not subject to the Control of Rent Ordinance. I agree with everything Mr. Atkinson has said.
>
> Judgment entered in terms of draft initialled by me."

The lease which was made on the 2nd March, 1954, between the plaintiffs and the defendant in respect of the premises in question expired on the 29th February 1964, and the defendant refused to give up possession of the premises upon the expiry of its lease.

In pursuance of the liberty to apply given by the judgment the plaintiffs applied by summons in chambers for an order that the defendant forthwith deliver up possession of the premises. At the hearing of this application counsel for the defendant maintained that the defendant was holding over and was therefore a statutory

tenant; that the premises in question were rent-controlled and the matter could not be disposed off by summons in chambers in an action which was concluded as far back as 1957; and that the plaintiffs should commence a new action to recover possession of the premises.

Counsel for the plaintiffs submitted that the plaintiffs had already obtained judgment and an order for possession of the premises but the said judgment and order were suspended for the duration of the lease provided that the defendant paid her rent regularly.

It seems to me that the matter is clear beyond all doubt. Under the judgment the defendant was ordered to give up possession of the premises forthwith but the judgment was not to be enforced during the residue of the term if the defendant paid her rent regularly before the 21st day of each month. The lease expired on the 29th February, 1964, and the judgment became enforceable upon the expiry of the lease. The defendant who has refused to give up possession, is clearly a trespasser as from the date of the expiry of the lease. The question of the premises being rent-controlled or otherwise does not arise at this stage of the proceedings. It is a matter which has already been dealt with at the trial and is therefore now closed. The defendant is bound by the judgment of 16th July, 1957, which is now enforceable against her. For these reasons I made an order in terms of the application.

Order in terms of application.

Solicitors: *Allen & Gledhill*; *L. M. Ong.*

DIN v. PUBLIC PROSECUTOR

[F.C. (Thomson L.P., Barakbah C.J. (Malaya), Tan Ah Tah F.J.) May 22, 1964]

[Ipoh — Federal Court Criminal Appeal No. 16 of 1964]

Evidence — Rape — Lack of corroboration of evidence of complainant — Whether fatal to conviction.

Penal Code, s. 376 — Rape — Conviction on evidence of complainant — When corroboration necessary — Whether corroboration required because of nature of witness or nature of offence.

The rule relating to corroboration (in rape cases) like most of the other rules of our law of evidence which are based on accumulated human experience and common sense is not a purely technical rule contravention of which is fatal to a conviction.

The desirability for corroboration of the evidence of the prosecutrix in a rape case (which in any event has not yet crystallized into something approaching a rule of law and which is still a rule of practice and prudence) springs not from the nature of the witness but from the nature of the offence. The necessity for corroboration, generally speaking, is not so imperative with regard to the identity of her assailant as to the fact of the offence itself. Though it might be dangerous to find the *factum* of rape on the uncorroborated evidence of the prosecutrix, once that *factum* of rape is established there seems to be nothing left to support the view that her identification of the assailant calls for corroboration any more than it would in relation to any other type of offence.

Cases referred to:—

(1) *Baskerville's case* [1916] 2 K.B. 658.

(2) *Graham* 4 Cr. App. R. 218, 221.

(3) *Crocker* 17 Cr. App. R. 46, 48.

FEDERAL COURT.

A. Mahendran for the appellant.

Mohamed bin Ya'acob (Deputy Public Prosecutor) for the respondent.

Thomson L.P. (delivering oral judgment): This appellant was convicted in the High Court at Ipoh for the rape of a woman, Soh Lee Heok, at Trong in the District of Larut and Matang, in the State of Perak, on 23rd August, last year, in contravention of section 376 of the Penal Code and was sentenced to four years' imprisonment and six strokes of the cane.

Against that conviction and sentence he has now appealed.

The prosecutrix is an unmarried woman, aged 29, employed as a domestic servant. On the night of 22nd/23rd August her employers were away from home and she was sleeping in their house with her younger sister. Her story was that about 10.30 p.m. she went to bed dressed in a blouse and trousers. About 3.00 a.m. she woke up and found two men in the room, one of whom was the appellant whom she did not know before. He was naked, however, and she observed a body mark on his shoulder. He held her by the throat and threatened her with a knife. He made her lie down and had sexual intercourse with her. She was unable to struggle as all the time he was holding his knife to her person.

When he had accomplished his purpose the appellant and his companion left the house. The prosecutrix shouted for help and the watchman came and called the next door neighbours. She then went to the Police Station where she made a complaint. In that complaint she said nothing about being raped; what she said was that thieves had broken into the house; one of them had caught her by the neck and told her not to make any report. Then they took a watch and some money and departed. They were both Malays and she could recognize them again.

A little later police officers went to the scene of the alleged offence and on the cover of the bed on which the prosecutrix said the offence was committed they found fresh stains. They also found a pair of trousers which the prosecutrix said she had been wearing and these also had stains. Both sets of stains on subsequent laboratory examination were found to be seminal.

The prosecutrix was then sent to the hospital where she was examined by two doctors. They